

<p style="text-align: right;">Page 234</p> <p>1 nefarious or otherwise, that it was kind of like a 2 form of a flip. 3 Q. That was my next question. Would that 4 information on a title commitment lead an experienced 5 real estate person to conclude that this property may 6 be a flip? 7 A. My answer is yes, but I would add: 8 These days, and maybe it's because of things like 9 Walsh and Kane, if there's a change of ownership 10 within X days of the closing they want some more 11 information about it. 12 Q. I understand there are new HUD 13 regulations. 14 A. Yes. 15 Q. But back in '96 or '97 are you able to 16 say whether or not a person looking at a title 17 commitment that has an ownership interest identified 18 without recording information or with "to be 19 recorded" information that that would be at least 20 some indicia that this might be a flip transaction? 21 A. It would raise an eyebrow. Let's put it 22 that way. 23 Q. And would you expect that to raise an 24 eyebrow with an educated lender? 25 MR. MAGNANINI: Objection to the form.</p>	<p style="text-align: right;">Page 236</p> <p>1 Q. Tell me what it is that you recall about 2 that. 3 A. I recall that Coastal Title being 4 concerned about these unrecorded deeds and I did not 5 hand -- I did see a letter come in from them. I 6 don't remember who specifically signed it, and mainly 7 because of Lory's contact and working with Bill Kane, 8 which was far more extensive than my contact in 9 working with him, she kind of handled it for me and 10 conveyed my thoughts to him. I didn't have the money 11 to record these things and if he want them recorded 12 he better start paying for them and that's basically 13 what I recall. 14 Q. That was going to be my next question. 15 The specific deeds that Coastal was concerned about 16 at that point in time, what was the reason they had 17 not been filed? 18 A. Monetarily there was no money. 19 Q. You couldn't afford to do it? 20 A. Yes. 21 Q. Now, at any given closing don't you take 22 out the fees -- aren't the fees and stuff available 23 by virtue of the closing in a normal closing? 24 A. Yes. 25 Q. Why weren't they available in a Kane</p>
<p style="text-align: right;">Page 235</p> <p>1 A. I don't know. 2 Q. That's all I have. Thank you, 3 Mr. Yacker. 4 MR. KOTT: I do want to mark the 5 document I used with the witness, which was 6 Plaintiff's Certified Responses and Objections, as 7 the next sequential document. 8 (Yacker-5, Plaintiff's Certified 9 Responses and Objections, is received and marked for 10 identification.) 11 CROSS-EXAMINATION BY MR. McGOWAN: 12 Q. I am going to be very short. 13 A. The shorter the better. 14 Q. Coastal Title I represent. All right? 15 A. Okay. 16 Q. Now, you did say in connection with 17 questioning by one of the other attorneys you have a 18 recollection of Mr. Agel and/or other functionaries 19 from Coastal Title getting agitated about the fact 20 that certain documents had not been filed and coming 21 over and picking them up and taking them to get 22 filed. Do you recall that? 23 A. Not exactly the details of coming over 24 and picking them up or this famous box. Generally 25 yes.</p>	<p style="text-align: right;">Page 237</p> <p>1 closing? We will use that phrase. 2 A. Well, they were closing for closing for 3 closing, but on this particular occasion because Kane 4 was paid twice on a matter there was this gigantic 5 hole in my trust account, but there was other monies 6 sitting -- as you know, trust accounts are very 7 fluid, money comes in, money goes out and you hope 8 it's all timed right so you don't go around bouncing 9 checks, and there's no excuse for bouncing a check, 10 but there was enough of a shortage that it bounced 11 two rather insignificant checks, under a couple of 12 thousand. 13 Q. Hold on. Do you recall approximately 14 how many, let's just use, deeds, how many deeds 15 needed to be recorded on account of the fact that you 16 didn't have the money to do it? 17 A. No, I don't recall. 18 Q. Okay. Was it more than ten, less than 19 ten? 20 A. I would say more than ten. 21 Q. More than ten? 22 A. Yeah. 23 Q. Less than 50? More than 50? 24 A. I think less than 50. 25 Q. So somewhere between ten and 50?</p>

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1 A. Giving you my best estimate.
 2 Q. That's what I'm asking for.
 3 A. Okay.
 4 Q. The letter that you have seen here today
 5 from Coastal that was marked Yacker --
 6 MR. MAGNANINI: One.
 7 Q. Is that letter, do you know, in
 8 connection with some of these documents that had not
 9 been filed because you didn't have the money or is
 10 this something else?
 11 A. I don't know. I don't recall.
 12 Q. The date of that Yacker -1 is January 6,
 13 1997. Would that be about the time where you were
 14 having the problem with the money?
 15 A. I don't recall that either.
 16 Q. Other than apparently having received --
 17 at least it's addressed to you -- Yacker -1, and
 18 other than this knowledge that you just told us about
 19 when the deeds were not getting filed because you
 20 didn't have the money to do it, do you personally
 21 recall any other interaction between yourself and
 22 Coastal Title Agency in connection with any of these
 23 loans?
 24 A. No, I do not.
 25 Q. Do you know -- I know what you suspect,

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1 but do you know whether Lory King had any interaction
 2 with Coastal on these Kane loans?
 3 A. Direct firsthand knowledge, I don't
 4 know, but you're right, I suspect she did.
 5 Q. You surmise she did.
 6 A. Yes.
 7 Q. Would the same be true with Kane, you
 8 surmise he did although you don't know?
 9 A. Surmise that Kane did what?
 10 Q. Had contact with Coastal Title in
 11 connection with these --
 12 A. Yes, I surmise that he did.
 13 Q. In the normal course of events, if I'm
 14 buying a house, and I come in and say I'm going to
 15 get that guy Yacker, he does all the real estate in
 16 Manalapan, okay, and I go to your office and you say
 17 to me: Where are you going to buy a house? I am
 18 looking at this house in Little Silver. And let's
 19 say the contract goes through and now it's time to
 20 start ordering things and I'm -- you represent me as
 21 the buyer.
 22 A. Okay. Excuse me. What's the
 23 significance of Manalapan? You picked out a town?
 24 Q. Yeah, I picked anything. Aren't you
 25 going to call the attorney for the seller to find out

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1 who has got the title policy on that house already?
 2 A. Sometimes I did, sometimes I didn't. If
 3 the -- if I suspected that the transaction was very
 4 routine, development house, for example, is usually
 5 very routine, not necessarily. I had a favorite
 6 title company that I would deal with, not Coastal,
 7 and it was just easy to refer the matter directly to
 8 them. I would only ask for the prior title policy if
 9 a question came up.
 10 Q. How about if you were aware of the fact
 11 that the house that I was going to buy had changed
 12 hands like within the last two years, would you then
 13 call up the other attorney to find out who's got the
 14 title policy?
 15 A. Maybe. I don't think it was my set
 16 practice.
 17 Q. All right. Coastal's -- how did Coastal
 18 get involved in these Kane transactions in the first
 19 place? Is that one of the pies that Kane had his
 20 finger in?
 21 A. Absolutely, because we started out --
 22 what I referred to as these earlier transaction --
 23 using a different title agency. He insisted we use
 24 Coastal.
 25 Q. So Kane wanted to use Coastal?

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1 A. Yes, just like he wanted to use
 2 Mr. Rice, the insurance guy, and probably some other
 3 examples if I would think about it. He was a control
 4 freak. Absolutely.
 5 Q. Kane was not a lawyer, was he?
 6 A. No, not that I know of.
 7 Q. But he's basically running your show on
 8 the Kane closings. Right?
 9 A. He is basically?
 10 Q. Running your show?
 11 A. Absolutely. And I let him do that,
 12 stupidly, yes.
 13 Q. To the point where he was even
 14 apparently into your trust account. Right?
 15 A. Not apparently, he was.
 16 Q. I don't have anything else. Thank you.
 17 REDIRECT EXAMINATION BY MR. MAGNANINI:
 18 Q. Mr. Yacker, where was your -- your trust
 19 account was on a computer at some point?
 20 A. It got put on a computer. That's the
 21 thing that kind of relates to the last question.
 22 Bill offered to assist or help in that, and again
 23 because I'm so computer illiterate, not only did I
 24 leave most things to Lory, this I left entirely to
 25 Lory to work out with Kane and others to implement

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1 this program. It was supposed to benefit me and I
2 guess it did.

3 Q. Where was the computer actually located?
4 Was it in your office?

5 A. It was in -- yes. Let me just say, at
6 the time the office that I went to immediately after
7 splitting with Mr. Granata was on Route 34 but
8 further south of the office I wound up at. And that
9 would be from roughly February of '96 to around April
10 of '97, so about a year and three months. When
11 things got a little too busy for Lory to handle and
12 it wasn't necessarily the buy, it was the way they
13 were bunched together, very heavy at the end of the
14 month, and it was more than she had a right to have
15 dumped on her, we not only got her a little help, I
16 think I mentioned that, somebody that worked there
17 for a few weeks but she -- I also acquired some space
18 adjacent to my office. It was the next office over
19 so it was very private and that's where Lory worked
20 and that's where Bill Kane set up his little
21 computer, and that's where his accountant would come
22 in and I don't know whatever he did there.

23 I mention that only because I didn't
24 really have a chance to see what was going on in
25 there, not that I would know what I was looking at

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1 anyway, but he was in the next room adjacent to my
2 office but not technically part of my office.

3 Q. Who was Mr. Kane's accountant?

4 A. I don't remember his name. It might
5 have been Bill, the same as him, but I don't
6 remember.

7 Q. He would physically come to your office?

8 A. Yes, he would.

9 Q. And would he input things into your
10 trust account?

11 A. Well, I don't know what you mean by
12 "input things."

13 Q. What did he do when he was in your
14 office?

15 A. I don't know. He was there a lot though
16 and, yes, he did have access to my trust account.
17 And I think I mentioned it concerned Lory a great
18 deal. She thought there are lots of things there
19 that he had no business knowing about.

20 Q. I would like to show you what was
21 previously marked as Exhibit 15 in Miss King's
22 deposition. It's a printout of a cash disbursement.

23 A. All right.

24 Q. I'll represent to you that based on the
25 date in the upper left-hand corner on the first page,

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1 7/7/97, we believe this was printed by the government
2 after they had seized your files.

3 A. Okay. Possible.

4 Q. If you look in the bottom right hand it
5 says SYSW and then there's a series of numbers.

6 A. Yes.

7 Q. This was actually documents produced by
8 your counsel, Larry Lussberg at Gibbons DelDeo at the
9 beginning of this litigation. So we have a set of
10 your files that Mr. Lussberg had produced and they're
11 all Bates stamped with this code. I think it's
12 Stanley Yacker and then SW, I'm not sure what that
13 actually stands for.

14 A. Okay.

15 Q. But this is -- you kept a cash
16 disbursement journal in your regular operating of
17 your business?

18 A. Yes.

19 Q. And that was -- what did this -- what
20 did the cash disbursement journal show?

21 A. Well, it was part of the One Write
22 system. I had one for the trust account and one for
23 my general attorney's account, business account. And
24 it was a chronological by day and date and check
25 number of every check that was written, to whom and

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1 on what date.

2 Q. Can you take a look at King-15 and tell
3 me: Is this a printout of disbursements and --
4 actually disbursements and I guess there are credits
5 as well from your attorney trust account?

6 A. What is the question?

7 Q. Do you recognize this cash disbursement
8 journal?

9 A. No, I don't. Mine would be a
10 combination of two things. Again, the daily
11 chronological by date of every check written, and if
12 you ever used the One Write system, before everything
13 got put on computer we used to issue our checks -- in
14 the later months by computer but before that the
15 system is set up in such a way that when you fill out
16 the check it automatically puts things to the daily
17 journal, and if you insert in the carbonized system a
18 client ledger card, it puts all that in the right
19 column too. So when I was writing out a check to
20 Bill Kane on a particular file it would fall on --
21 the ledger card would fall on a column of
22 disbursement out of the trust account, or if it was a
23 business check it would go into a different column
24 all on the same ledger card and seemed to work for
25 me. The beauty of it was you could never forget to

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1 post something. As long as you wrote out a check it
2 got put someplace, but I never saw anything like
3 this.

4 Q. Mr. Yacker, I would ask you to take a
5 look -- this is also a document produced by your
6 counsel that's Bates stamped SYSW 6938 to SYSW 6947
7 and tell me if you recognize what that is.

8 A. Yes. This is the form of daily cash
9 disbursements for the trust account and I had
10 something similar for the business account but this
11 one is just all trust. Yes. This is part of the One
12 Write system. In fact, if I go through this I'll
13 probably see some, not many, but some written in my
14 handwriting.

15 Q. Can you compare that with the printout
16 and let me know if what you've got there is a
17 computerized printout of what is listed in your cash
18 disbursement journal?

19 A. I don't know -- how can I answer that?
20 I don't understand your question.

21 Q. What I'm asking you to do is look at
22 what you've got in front of you, it says "Cash
23 Disbursement Trust Account" and compare that to what
24 you have in front of you, which was produced, as I
25 said, by the United States government after they

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1 seized your records and books, which included that
2 cash disbursement trust account.

3 A. Okay. One it says, Cash Disbursement
4 Trust Account, the other just says Cash Disbursements
5 Journal.

6 Q. I'm more interested in the dates and the
7 check numbers, if you could verify that, the
8 substantive information.

9 A. Well, all right. The dates seem to
10 correspond. It seems to be, how shall I say, another
11 form of the same thing.

12 Q. Okay. And you recall receiving this
13 printout --

14 A. No, I don't.

15 Q. -- from the government? You can --
16 Mr. Yacker, going back to King-15, if you can turn to
17 the third page, it says page three of 18, Bates stamp
18 is SYSW 6903?

19 A. Got it.

20 Q. If you look at the ninth entry down, the
21 date is July 3, 1996, check number 1575?

22 A. Got it.

23 Q. And it says account ID 26100. It says,
24 "Current Status."

25 A. Yes.

1 Q. What is "Current Status"?

2 A. Just based on my recollection, and I am
3 not at all sure of this, but I think it's a surveying
4 outfit. Let me see the amount of the check.

5 Q. \$400?

6 A. Yeah, that's about the amount of a
7 survey. That's what I'm guessing. Educated guess or
8 you don't want that either? It's an educated guess.

9 Q. Okay. And so Current Status was
10 actually an vendor?

11 A. Yes, a supplier of services just like a
12 title company would be. For some reason this
13 required a survey, a lot of them didn't.

14 Q. And then if you could turn to page five
15 of 18, which is Bates stamped SYSW 6905?

16 A. Got it.

17 Q. And the first entry there says -- the
18 date is July 5, 1996 and --

19 A. What's the check number?

20 Q. It says, WT 07/05/96. What does the WT
21 stand for?

22 A. I have no idea.

23 Q. Is that "wire transfer"?

24 A. Could be.

25 Q. And then it says -- the line description

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1 is: "Wire out unfunding Walsh Securities," and then
2 it says job ID 123 Bay Avenue. It appears that money
3 is being we returned to Walsh Securities for some
4 reason. Do you know why?

5 A. No. Again, I can speculate and guess
6 but you don't want me to do that.

7 Q. No. What is "unfunding" in your cash
8 disbursement journal?

9 A. I don't remember ever using that word,
10 but to me it looks like we returned a wire to Walsh
11 by wire.

12 (Yacker-6, Letter dated 7/5/96, is
13 received and marked for identification.)

14 Q. Mr. Yacker, I would like you to take a
15 look at what's been marked as Yacker Exhibit 6 and
16 see if you recognize that.

17 A. No.

18 Q. It appears to be a memo from Miss King
19 to someone at Walsh Securities returning money.

20 A. Okay.

21 Q. Would Miss King send memos like this out
22 to lenders if money was to be returned to them?

23 A. I don't know.

24 Q. Why else would she send a memorandum to
25 somebody indicating that money was being returned or

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1 sent to the lender?
 2 A. I don't know.
 3 Q. Okay. You can put that down.
 4 A. Yes. The more I look -- I still can't
 5 answer your question as directly as you would like,
 6 but I do recall this address. This was a transaction
 7 that stood apart from the typical one. These are all
 8 condos in the same unit on Deer Lake Drive in Asbury
 9 Park. Years ago it was a very upscale area, Asbury
 10 Park. Even now today with all Asbury Park, what it's
 11 been through, it's a nice part of the city. And what
 12 it was, it was an old apartment building originally
 13 that was condo-ized, if that's a verb, and Bill had
 14 acquired some sort of an interest in it. I don't
 15 know if he bought it or he had acquired some sort of
 16 an exclusive right to sell, I don't know, but he had
 17 some sort of an interest in this place and we
 18 actually closed one. I don't remember if Walsh
 19 funded it or not. I assume they did, but for what
 20 it's worth all these applied to one building.
 21 Obviously not one transaction but one building. And
 22 again I have such dim recollection of this but for
 23 some reason it fell through. I don't know why but it
 24 did, and I now would say with a little bit more
 25 certainty than my initial answer, I think she was

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1 refunding the money to Walsh because it didn't go
 2 through and those are actually separate units.
 3 Q. Okay. If you could turn back to
 4 King-15, Mr. Yacker. Down at the bottom of that page
 5 five, Bates stamp 6905, again, the last three
 6 transactions, if you take a look at it, it says:
 7 Transfer from 602 Asbury to 132 Bay Avenue. And then
 8 it says directly beneath that: Transfer from 132 Bay
 9 Avenue from 602 Asbury Avenue, transfer, and you've
 10 got various amounts that seem to be moved back and
 11 forth: \$21,424, \$4,031 and then \$28,500. Why was
 12 money being transferred back and forth within your
 13 trust account on these two properties?
 14 A. I have absolutely no idea. Not even to
 15 hazard a guess.
 16 Q. And then if you could turn to the next
 17 page, page six of 18, Bates stamp 6906, on July 11,
 18 the last entry on that page, there's another transfer
 19 from 602 Asbury Avenue to 146 East 7th, and then the
 20 transfer from one to the other. Do you know why the
 21 funds were being transferred from -- in your trust
 22 account from one property, 602 Asbury, to another,
 23 East 7th Street?
 24 A. Same answer for the same reason. I
 25 don't know.

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1 Q. If you can turn to page seven then,
 2 there's an -- underneath the three William Kane
 3 payments there's a payment to a Paul Pinther,
 4 P-i-n-t-h-e-r.
 5 A. Okay.
 6 Q. For \$24,008.25 on July 15. And there's
 7 another payment on July 16, a wire transfer, it says
 8 \$166,000 to Pinther again, P-i-n-t-h-e-r. Who was
 9 Paul Pinther?
 10 MR. HAYES: Let me object to the form.
 11 I think the second one is a wire to Investors Title
 12 for a Pinther transaction.
 13 MR. MAGNANINI: Perhaps you may be
 14 correct, Mr. Hayes.
 15 Q. Who is Paul Pinther?
 16 A. Other than recalling seeing the name, I
 17 don't have the foggiest idea.
 18 Q. Was he involved in any way with Mr.
 19 Kane?
 20 A. I don't know directly and you don't want
 21 my assumption. I don't know.
 22 Q. And then turn to page 11 of 18.
 23 A. Okay.
 24 Q. There's a variety of checks paid to
 25 yourself for different property closings. You see

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1 that?
 2 A. I do.
 3 Q. On 7/24, and then beneath that there's a
 4 variety of checks paid to Lorraine King on July 24,
 5 1996.
 6 A. Okay.
 7 Q. All in the amount of \$200. I thought
 8 you had previously testified that Miss King was paid
 9 \$100 from what you were paid and then Mr. Kane paid
 10 her the other \$100?
 11 A. Mr. Kane did pay it but through the HUD
 12 statement so it was combined in one check. He didn't
 13 hand her a separate check for \$100.
 14 Q. Is that anywhere on the HUD statement
 15 that Miss King is receiving 100 or \$200 from him?
 16 A. I would have to look at the HUD.
 17 Q. Please take a look at King-13. I
 18 believe it's King-13 was the exhibit.
 19 A. King-12, can I use that one?
 20 Q. Do I have it wrong? That's the right...
 21 A. I'm not sure but there's an item on line
 22 1105 referred to as document preparation, "doc prep"
 23 we used to call it that probably was earmarked for
 24 Lory but I'm not sure.
 25 Q. How much was that?

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1 A. \$100.
 2 Q. Yet the checks on your cash disbursement
 3 journal are for \$200.
 4 A. The other would have come from me.
 5 Q. I think we can agree, Mr. Yacker, that
 6 the HUD-1 does not reflect this \$200 payment to Miss
 7 King anywhere on it.
 8 A. I think you're right and I don't know
 9 why.
 10 Q. And then you can turn the next page of
 11 the cash disbursement journal, page 12, you see up
 12 top on July 25 of 1996 there's nine payments to
 13 CAPMI, which you previously testified was Mr.
 14 Grieser's entity, Capital Assets Property Management,
 15 Inc.?
 16 A. Correct.
 17 Q. Why were you paying CAPMI?
 18 A. Probably under the direction of Bill
 19 Kane, and it was deducted accordingly off of his
 20 amount, but that's what I would surmise.
 21 Q. And then if you can go to the fourth
 22 entry there, it says WT 07/25/96, and if you look
 23 across the line it says: Job ID, 1017-1019 Bangs
 24 Avenue.
 25 A. I don't see that.

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1 Q. It's the fourth one down.
 2 A. I see. Okay.
 3 Q. It says there's a payment of \$55,500.
 4 A. Uh-huh.
 5 Q. And then is that list anywhere on the
 6 HUD-1, that CAPMI was getting \$55,500?
 7 A. Well, I thought I previously testified
 8 that money that was paid from the seller's proceeds
 9 of sale at the seller's direction would not be listed
 10 on the HUD.
 11 Q. How much did Mr. Kane receive on --
 12 A. 187,000 and change it looks like.
 13 Q. And the 55,500 was directed to be paid
 14 to Mr. Grieser?
 15 A. It appears that way from the documents,
 16 yeah.
 17 Q. And then if you can go further down, the
 18 tenth entry on page 12, July 25, 1996.
 19 A. Okay.
 20 Q. It's a series of about 12 payments and
 21 at the bottom it says: Richard Pepsny?
 22 A. Okay.
 23 Q. If you look to the right you will see a
 24 total of \$454,390.24.
 25 A. Yes.

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1 Q. And then when you look what comprises
 2 this \$454,390 it appears that one of the payments,
 3 the property is for 1017-1019 Bangs Avenue. You see
 4 that --
 5 A. Yes, I do.
 6 Q. -- as the fourth property down? And so
 7 from your trust account you sent \$27,591.10 to Mr.
 8 Pepsny for Bangs Avenue?
 9 A. Yes.
 10 Q. Why did you do that?
 11 A. Again, I can only surmise. He probably
 12 had to pay off something from his transaction, an old
 13 mortgage or something, and it was sent to him to take
 14 care of it, but my answer is the same to all these
 15 questions. I look at these things and I can only
 16 tell you what you see for yourself, what they appear
 17 to show. I have no independent recollection of these
 18 things.
 19 Q. Could you do me a favor, flip back to
 20 page seven and so -- of 18.
 21 A. Uh-huh.
 22 Q. And then seven entries from the bottom,
 23 in between all the -- bank check to GG to William
 24 Kane. Who is GG? Is that Gary Grieser?
 25 A. It could be. Where do you see that?

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1 Q. It says on the -- next to check number
 2 1649, you have a -- there's an account ID number and
 3 it says, line description, bank check to GG for
 4 \$28,000.
 5 A. Yeah. It looks that way. I think for
 6 whatever reason he wanted something other than an
 7 attorney's trust check. I mean, again, I'm
 8 surmising.
 9 Q. Was Summit Bank one of the banks that
 10 you used?
 11 A. Yes, for trust account, yes. I had
 12 different ones from time to time but at that time,
 13 yes.
 14 Q. And then going back to my previous
 15 question, the date of July 23, 1996, check number
 16 1648 is -- to Mr. Kane is for \$28,000. Do you see
 17 that?
 18 A. Yes.
 19 Q. That's also for 1017-1019 Bangs Avenue.
 20 A. Okay.
 21 Q. So you paid Mr. Kane July 23rd \$28,000.
 22 The closing on Bangs Avenue occurs July 25th during
 23 which you then pay CAPMI and Mr. Pepsny. And Kane
 24 had bought this property for \$28,000. If you want to
 25 go back to the deed --

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1 A. No, I will take your word for it. What
 2 is your question?
 3 Q. My question is: Why are the -- why are
 4 all these disbursements on this one property?
 5 A. I don't know.
 6 Q. Okay.
 7 A. It seems -- the sum total of all your
 8 questions, the only two that spark any kind of
 9 knowledge is Pinther in that it's a name I am
 10 familiar with, and that other name corresponds
 11 according to my recollection to a surveying outfit
 12 and I'm glad to help you on that information, but
 13 otherwise I just see the same things you do. I don't
 14 know what they're for or what they were meant to be.
 15 Q. One more question then. On page 12 on
 16 July 25th you have check number 1736. It's July 25,
 17 check number 1736.
 18 A. Okay.
 19 Q. If you hook at the line description it
 20 says: "Void check to Anthony D'Apolito." Mr.
 21 D'Apolito was one of the straw buyers involved with
 22 this. Why would you be giving him a check or why
 23 would a check to him be voided?
 24 A. I don't know. It could be any number of
 25 reasons but I don't know.

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1 Q. And then if you -- do me a favor, flip
 2 the page 14, we're almost done.
 3 A. Absolutely.
 4 Q. And then if you look, the date is July
 5 30, 1996?
 6 A. What check number?
 7 Q. 1772. And you will see: City of Asbury
 8 Park, 78174 and the job says 1017 Bangs Avenue. Do
 9 you see that?
 10 A. Yes, I do.
 11 Q. And then -- my mistake. If you skip
 12 down to check number 1776, it says, Monmouth County
 13 Clerk for \$775.
 14 A. Yes.
 15 Q. What was that check for?
 16 A. By appearance of it I would say a realty
 17 transfer fee but that's an educated guess.
 18 Q. Yes. I am in concurrence with you
 19 there. The second check is for \$77 to the Monmouth
 20 County Clerk. What would that be for?
 21 A. Probably a recording fee for a single
 22 instrument like a deed or something.
 23 Q. You see that both of those checks on
 24 July 30, both checks to Monmouth County Clerk for
 25 the -- what is likely a realty transfer fee and

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1 recording are both voided.
 2 A. Uh-huh.
 3 Q. Do you have any idea why the checks were
 4 voided?
 5 A. No.
 6 Q. If the checks were voided you could not
 7 file the deeds or you wouldn't be transferring the
 8 property. Correct?
 9 A. No, but the usual reason for voiding a
 10 check is that it gets filled out incorrectly,
 11 inadvertently, the wrong amount, the wrong name or
 12 something and you don't want to try to correct it
 13 right on the check. That always arouses suspicion.
 14 So you void the check. And if what you're saying is:
 15 How come there's not another one issued to replace
 16 it, I don't know, but then I don't know why it's
 17 there in the first place. So my answer is: I don't
 18 know.
 19 Q. Then the same thing, if you look above,
 20 there's another two checks on July 30th, 1769 and
 21 1770. Again --
 22 A. I got it.
 23 Q. You see for 155 Chelsea Avenue for 875
 24 and 77, again both of those are voided?
 25 A. I don't know why.

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1 Q. And if you can turn to page 15 of 18.
 2 A. Yes.
 3 Q. Bates stamp 6915 there's three checks to
 4 Murphy Realty, the first three checks on July 30th,
 5 and they're in fairly similar amounts, 5,034, 5,040
 6 and 5,406, all for 1017-1019 Bangs Avenue.
 7 A. Okay.
 8 Q. Why would from your trust account you
 9 pay the realty firm three checks on one property?
 10 A. I do not know.
 11 Q. Do you know if Mr. Kane instructed Miss
 12 King to void the checks to file the deeds and
 13 mortgages?
 14 A. I have no idea.
 15 (Yacker-7, Memo dated 7/26/96, is
 16 received and marked for identification.)
 17 (Yacker-8, Memo dated 7/26/96, is
 18 received and marked for identification.)
 19 Q. Mr. Yacker, have you seen these
 20 memorandums before from -- on your office's of
 21 letterhead by Miss King to Mr. Pepsny?
 22 A. I do not have any specific recollection
 23 of seeing it.
 24 Q. You said that, I believe in response to
 25 Mr. Kott's question, that you were never a partner

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1 with Mr. Pepsny.
 2 A. That's correct.
 3 Q. Have you ever met him?
 4 A. Oh, yes, many times.
 5 Q. In person?
 6 A. Oh, yeah.
 7 Q. On these Kane transactions?
 8 A. Yes.
 9 Q. Did you discuss how did he come to meet
 10 Mr. Kane?
 11 A. Through Mr. Alfieri.
 12 Q. And what was -- Mr. Pepsny worked for
 13 Mr. Alfieri?
 14 A. Yes.
 15 Q. And how did that -- what did he tell you
 16 about their meeting?
 17 A. I don't understand your question. Could
 18 you ask it a different way?
 19 Q. What did Mr. Pepsny tell you about
 20 meeting Mr. Kane or how he was introduced to Mr.
 21 Kane?
 22 A. I don't really know. I just assumed it
 23 was through his association with Mr. Alfieri.
 24 Q. He never told you that it was through
 25 his association with Mr. Alfieri?

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1 A. No, he never did.
 2 Q. And you never asked Mr. Kane how he came
 3 to work with Mr. Pepsny?
 4 A. Only by what I assume that it was
 5 through Mr. Alfieri and his connection was through
 6 Selective, being in the same building and all of
 7 that.
 8 Q. Did Mr. Kane ever work for Selective?
 9 A. I don't know.
 10 Q. Did Mr. Pepsny ever work for Selective?
 11 A. I don't know.
 12 Q. So Mr. Pepsny represented Mr. Kane in
 13 all the transactions in which you were involved?
 14 A. I want to say the vast majority of them.
 15 There were a couple of other attorneys whose names
 16 escape me who did represent Mr. Kane in some very
 17 isolated transactions, and I can't remember their
 18 names. But it was not Pepsny or Alfieri, and I don't
 19 know whether it involved Walsh or not. They just
 20 kind of stick in my mind. They were local attorneys,
 21 I had never dealt with them before.
 22 Q. What was your role in those
 23 transactions?
 24 A. I don't know. I just crossed paths with
 25 them.

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1 Q. So in the transactions that we're
 2 discussing here that Mr. Pepsny was -- he's the only
 3 counsel --
 4 A. The vast majority, maybe 99 percent.
 5 Q. And as far as you know he represented
 6 Mr. Kane and his companies both in acquiring property
 7 and then in selling them?
 8 A. As far as I know, yes.
 9 Q. And so Mr. Pepsny knew that Mr. Kane had
 10 not purchased the properties before he sold them?
 11 A. I don't know what he knew or didn't
 12 know.
 13 Q. Did you ever discuss that with him, that
 14 Mr. Kane was purchasing properties and then using the
 15 proceeds of the purchase to fund his original
 16 acquisition?
 17 A. Only in the -- to the extent that it was
 18 anxious time from like three o'clock to whenever we
 19 did get this deed from Rick or somebody from his
 20 office or Bill Kane as the messenger, and, yes, Mr.
 21 Pepsny was well aware of the trials and tribulations
 22 of that particular issue. How soon we were going to
 23 get that deed, which we needed and the related papers
 24 to call it a complete transaction.
 25 Q. Although at least in some of what we've

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1 seen the deed with -- that I showed you in Yacker -1
 2 to 4, the deed from -- let me just ask that question.
 3 Which deed are you talking about that you were
 4 waiting upon from Mr. Pepsny?
 5 A. The deed from the original owner to Bill
 6 Kane's entity, let's say, Cristo Properties, is the
 7 deed we were waiting for.
 8 Q. That's what I thought you meant.
 9 A. Yes.
 10 Q. Now, what did you do in the case of when
 11 you have Yacker number -- if you still have the
 12 exhibits 1, 2, 3, 4.
 13 A. Okay.
 14 Q. Those exhibits show that the sale to Mr.
 15 Leodis occurs July 25th but the deed to Mr. Kane
 16 obtaining the property in Perth Amboy isn't executed
 17 until September 4 of 1996. So what happened in cases
 18 like that when you couldn't wait until -- you could
 19 wait until 3:15, but you had to wait until 3:15 three
 20 months later to get the deed?
 21 A. I don't know. I would have been going
 22 crazy. I don't know. I think the latest we ever
 23 waited, and this is again part of Bill Kane's
 24 nibbling a little bit at a time, was first thing the
 25 very next morning Kane would come running in half out

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1 of breath: Sorry, I got held up in traffic or
2 whatever, here's the deed. You go: Whew, you know,
3 you would breathe a sigh of relief.

4 Q. But you don't recall what happened in
5 that case, which was several months between the
6 closing and the deed?

7 A. My answer is no, I don't, but I know I
8 would have been beside myself.

9 Q. Mr. Yacker, going back to Exhibit 7
10 then, do you recall that Mr. Kane ever directed you
11 to send money to Mr. Pepsny beyond that \$650 which
12 was listed in the HUD-1 form?

13 A. Yeah, I do, and generally it would be
14 for some other thing that he legitimately owed as
15 part of that initial transaction. Let me see if I
16 can make it a little more clear. Let's see.

17 Q. Maybe I can be a little more specific.
18 If you look on Yacker-7.

19 A. I'm looking.

20 Q. Six lines from the bottom there you will
21 see the same address that is referenced in Yacker -1
22 through 4, 768 State Street. So here's a transaction
23 in which Mr. Kane doesn't buy the property until
24 September 4th but Miss King is wiring Mr. Pepsny
25 \$54,291.96 on July 26th.

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1 A. Okay.

2 Q. Why would Mr. Kane direct you to send
3 money to Mr. Pepsny for a property that he hadn't
4 acquired?

5 A. I don't know.

6 Q. Mr. Yacker, if you could take a look at
7 what we've marked as Stanley Yacker No. 8, and that's
8 a memo again of your office letterhead from Lory King
9 dated July 26th to Gary Grieser. Do you recall Mr.
10 Kane ever telling you to wire that much money,
11 \$369,550 to Mr. Grieser on one day?

12 A. Quite a bit of money but the answer is
13 no, I don't recall.

14 Q. And, again, if you look in the middle of
15 the list, there's 1017-1019 Banks -- it says Banks
16 instead of Bangs Avenue, but again he is removing
17 \$55,500 from your trust account. And what was Mr.
18 Grieser's relationship with Mr. Kane? You said they
19 had some sort of venture.

20 A. They combined on many, many of Bill
21 Kane's ventures. Exactly who got what for doing what
22 I don't know. That was up to them.

23 Q. What was Mr. Grieser's responsibilities
24 as part of that venture?

25 A. I don't know. He certainly didn't run

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1 around like Bill Kane did, but whatever, they were in
2 it together in some proportion, which was made known
3 to me, and he got paid again with Bill Kane's
4 knowledge and concurrence on all of the ones where he
5 had an interest, where he had part of it. Other than
6 that I don't know. They definitely had a
7 relationship.

8 Q. Did Kane ever tell you why he was
9 paying, for example, 55,500 to Grieser on that one
10 transaction?

11 A. No.

12 Q. Did he ever tell you why he was in a
13 venture with Grieser?

14 A. No, except that I knew they were.

15 Q. Last bit of paper. Mr. Yacker, I would
16 like to show you what's been marked as King-16, 17,
17 18 and 19. Mr. Yacker, I would ask you to take a
18 look at these four exhibits that I previously marked
19 on April 30, 2010 at Lory King's deposition.

20 A. Okay.

21 Q. And then starting with the first
22 exhibit, and again if you look in the lower right
23 corner you will see the SYSW Bates stamp so that
24 actually -- those came from your --

25 A. Attorney.

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1 Q. -- attorney. From your books and
2 records. And this is for the sale of a property at
3 155 Chelsea Avenue in Long Branch. Do you recall the
4 buyers, Mr. and Mrs. Salvatoriello?

5 A. Only by name. It's a name that strikes
6 a cord of familiarity with me.

7 Q. Have you ever met them?

8 A. I don't think so.

9 Q. Up top on the -- it says: "When
10 recorded mail to," and there's Walsh Securities
11 crossed out and then there's -- is that a Stanley
12 Yacker stamp that you had?

13 A. I did have a Stanley Yacker stamp but I
14 don't know how this was done. It could have been
15 somehow typed in. I don't know but I did have a
16 Stanley Yacker stamp.

17 Q. Why would you have recorded and returned
18 to yourself instead of the lender?

19 A. Well, I think it's tied into the same
20 reason I gave some time ago, today, all things being
21 equal I would prefer the documents come back to me.
22 Not a big deal but I would just prefer it. That way
23 I know it's been recorded and that way I alert the
24 title company that, hey, these docs have been
25 recorded, start the machinery in motion to issue a

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1 title policy. It's just a better -- keeps better
 2 track of things.
 3 Q. And if you could turn to within Exhibit
 4 16 the page that's Bates stamped SYSW 04523. It's
 5 the third page from the back.
 6 A. Okay. I got it.
 7 Q. You see it's a deed dated July 26th?
 8 A. Uh-huh.
 9 Q. And then who is the seller of this
 10 property?
 11 A. Cristo.
 12 Q. And do you see when it is actually
 13 recorded on the County of Monmouth stamp?
 14 A. Let's see.
 15 Q. February 26 of 1997?
 16 A. Correct.
 17 Q. Do you know why there was again this
 18 seven- or eight-month lag?
 19 A. No, I do not.
 20 Q. Turning to King-17, and it's a letter to
 21 you from the City of Long Branch. I would ask you to
 22 take a look at it and let me know if you have seen
 23 this before.
 24 A. I don't remember seeing the letter
 25 before, but I do remember being confronted with the

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1 issue that -- I thought it was actually Asbury Park
 2 but apparently the Long Branch tax collector had
 3 raised some issue about changing the record owners on
 4 property, and I had no reason not to help him as much
 5 as I could but I don't know how it was handled.
 6 Q. Do you recall how it came to be that the
 7 property was purchased by D&Sons and then sold by
 8 Cristo Properties?
 9 A. No, and my answer again would be just
 10 pure speculation.
 11 Q. Was it -- Mr. Kane, you said, was
 12 involved in both -- he owned Cristo Property and
 13 involved in D&Sons?
 14 A. Yes.
 15 Q. And then if you look at exhibit King-18,
 16 this again is you sending or your office sending
 17 documents, the deeds to be recorded, on February 10,
 18 1997 from the July 26, 1996 closing. Do you recall
 19 actually sending these deeds out for recording with
 20 the -- with one deed showing a sale to D&Sons and
 21 another one showing a sale from Cristo to
 22 Salvatoriello?
 23 A. No, I don't.
 24 Q. How did this issue get resolved?
 25 A. I assume --

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1 MR. KOTT: Let me interrupt. I don't
 2 think it -- that's a deed from D&Sons to Cristo.
 3 When you look at the --
 4 MR. MAGNANINI: That's what I'm saying,
 5 David, that's what the oddity was, that it was a
 6 seller to D&Sons, but then the next sale was Cristo
 7 to Salvatoriello. Sorry.
 8 MR. KOTT: Two deeds here but there's
 9 not a deed from D&Sons to Cristo.
 10 MR. MAGNANINI: Sorry. Off the record.
 11 (A discussion takes place off the
 12 record).
 13 Q. All right. Mr. Yacker, if you can turn
 14 to the last exhibit then, King-19.
 15 A. Yes.
 16 Q. This is a letter from Lory King of your
 17 office to Norwest Mortgage paying off two properties,
 18 one of them is one of the properties at issue here,
 19 155 Chelsea Avenue. Were you in the habit of paying
 20 mortgages for Mr. Kane's companies?
 21 A. No, except there might be an instance
 22 where he directed me to do that, again, from out of
 23 the proceeds he would normally be getting.
 24 Q. Do you recall if he directed you to do
 25 it in this case?

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1 A. No, I don't recall.
 2 Q. Would he direct you or direct Miss King?
 3 A. Probably Miss King.
 4 Q. And then the -- if you could look on the
 5 second page of King-19.
 6 A. Yes.
 7 Q. Is that your handwriting?
 8 A. Well, let me make sure. Definitely not
 9 my handwriting, but it looks like they're computing a
 10 mortgage payoff with interest.
 11 Q. That's fine. Mr. Yacker, at some point
 12 you pled guilty to several offenses, actually I
 13 guess, on January 15, 2002 --
 14 A. Yes.
 15 Q. -- in Federal Court?
 16 A. Yes.
 17 Q. Before Judge Wolin.
 18 A. What was the date you gave me again?
 19 Q. January 15, 2002.
 20 A. Okay.
 21 Q. Do you recall that?
 22 A. Yes.
 23 Q. And you were represented by Mr.
 24 Lussberg?
 25 A. His office, yes.

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1 Q. And then I just had wanted to ask you if
2 there's any reason you disagree with what your
3 answers were during the plea at this time?

4 A. Okay.

5 Q. And so the question to you was: "Did
6 you commit the following fraudulent acts to further
7 the straw buyer's scheme: A, issue and cause to be
8 issued false letters regarding nonexistent deposits
9 of funds by purchasers or borrowers, which funds you
10 claim to be holding in escrow?"

11 And then I will just do: "B, close
12 title on the resale portion of flip transactions
13 knowing that the original purchase of the property
14 had not yet closed?"

15 And "C, sign and cause straw buyers to
16 sign false and fraudulent closing documents including
17 HUD-1, RESPA, settlement statements, which did not
18 truthfully describe receipts and disbursements of
19 funds and affidavits, which falsely asserted that the
20 straw buyer would be residing in the subject
21 property?"

22 And you answered yes to those charges.
23 Is there any reason why your answer would be
24 different today?

25 A. Perhaps. Can I take a look at that?

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1 that one or more of those things on that list applied
2 to one or more of the nine or ten counts of the
3 indictment. And with that qualification -- and he
4 pointed it out to me. I said okay, and I was able to
5 feel a little more comfortable about pleading guilty
6 to those, but if I were to sit today and tell you
7 which ones applied to which people, I don't know, but
8 it was only when I was comforted by that language
9 that I felt like I could plead guilty to those
10 things.

11 Q. I understand that, Mr. Yacker, but that
12 page 23 and four of your plea and up to the middle of
13 page 25 up through line ten deals with counts, as it
14 says on line 18 of page 23, Counts 2 through 10 of
15 the indictment against you.

16 A. Yes.

17 Q. What I was focused on was on page 25
18 starting on line 11. This is a separate document.
19 It's an information. So you pled guilty to an
20 information instead of having the process run through
21 a grand jury and having a grand jury produce an
22 indictment. So there was both an indictment against
23 you and this was an information you pled guilty to.

24 A. I wasn't aware of that. I thought I was
25 indicted by that.

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1 Q. Sure.

2 A. What page was that that you were reading
3 from?

4 Q. 26.

5 A. I would like to read the whole thing.

6 Q. You're welcome to take it if you want.

7 A. Can I take it?

8 Q. Sure. Absolutely.

9 A. Yeah, I think the key, without going
10 over word by word, because I specifically had this
11 conversation with my attorney that day and to show
12 you how my memory is far from perfect I thought he
13 sent his associate that day but obviously it was Mr.
14 Lussberg himself.

15 Q. There was also someone else from his
16 office there.

17 A. Was there? All right. Then I have a
18 recollection of having this with his associate, this
19 conversation that I'm about to reveal, but I somewhat
20 balked at the statements that I was asked to confirm
21 until he focused, and this was more his associate
22 than Larry himself, on page -- because I remember
23 this, page 23, he emphasized the point that I just
24 unlined on my own copy, lines 18 to 20, that all
25 these things -- a lot of them sounded kind of odious,

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1 Q. You were. And there's also -- there was
2 a superseding indictment which encompassed -- and I
3 think -- if you want you are welcome to read your
4 plea transcript, there's a superseding indictment
5 which encompassed both what you were originally
6 indicted for there, and then the information you pled
7 to here and the question -- the answer you gave me
8 deals with the original indictment on sales to buyers
9 in 1995.

10 The questions I had asked you about were
11 the information that you pled guilty to, which is the
12 Bill Kane transactions funded by Walsh Securities
13 from 1996 through 1997, and that's why all I was
14 focused on was on page 26: Did you commit the
15 following fraudulent acts to further --

16 A. How many -- I don't want to interrupt
17 you but how many separate ones are listed in --

18 Q. They have got -- that's what I said,
19 there's an A and a B and a C. So the things you pled
20 guilty to --

21 A. What page?

22 Q. Page 26.

23 A. Okay. But I specifically
24 remember whatever his associate's name was, again,
25 because I had problems with this, reminding me, and

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1 maybe he was pointing to a document that had this
 2 language in there, this "one or more" thing. In
 3 other words, if two of those things I never did or
 4 never admitted to, at least one of them applied and
 5 that's all I was saying. I said, Well, okay, I just
 6 want you to know, if you're asking me if that's my
 7 answer today, it would be the same with that
 8 understanding that that's what I thought I was
 9 pleading to and I think I was right. I think he was
 10 right the way he explained it to me.

11 Q. Now you've got me confused. So going
 12 back to page 26, they asked you in A: Did you issue
 13 false letters regarding nonexistent deposits of
 14 funds, and you already testified that you had done
 15 that, that you were holding checks but you didn't
 16 have funds.

17 A. Okay.

18 Q. So your testimony today is not any
 19 different than it was at your plea hearing on January
 20 15, 2002 in regard to that issue.

21 A. That's correct, but I want you to
 22 understand what I said then as well as reaffirming
 23 now is that I was admitting exactly what it says
 24 here, that I did one or more of those allegedly
 25 fraudulent acts, and I didn't have to describe to

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1 anybody which ones.

2 Q. Okay. I understand that. What I'm
 3 asking -- my question here now is -- and it seems you
 4 have already testified to all this, but I just want
 5 to be sure. So you're admitted to issuing false
 6 letters?

7 A. No. I admitted to doing one or more of
 8 those A, B or Cs. What were they again?

9 Q. They're right there on page 26, but it
 10 doesn't -- my confusion is: It doesn't say anywhere
 11 the -- in this part of your plea that you were only
 12 admitting to one or more.

13 A. Except that's what apparently was in the
 14 directions or whatever. Look at lines 18, 19 and 20.
 15 That's where --

16 Q. On page 26?

17 A. On page 26, yeah.

18 Q. You're on 23. That's what I'm saying,
 19 you're still on the indictment. If you turn to 26 --

20 A. Okay. Whatever you call it, that's what
 21 I thought I was --

22 Q. Go to the next line.

23 A. What do you want to direct me to?

24 Q. What I wanted to direct you to was lines
 25 nine through --

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1 A. Did you commit the following fraudulent
 2 acts to further the straw buyer's scheme?

3 Q. Right. And if you read that through
 4 line six on page 27 --

5 A. Okay. My answer is the same. My
 6 understanding was, as again explained by my attorney,
 7 that I was -- I don't care whether you call it an
 8 indictment or information or whatever, that that's
 9 what I was pleading to and I stand by that today.

10 Q. Okay. So when the judge asked you on
 11 line 25 on page 26: Did you do all these things,
 12 meaning A, B, C above, it says, "knowingly and
 13 willfully, I'm going to add voluntarily as well,
 14 voluntarily meaning of your own free will and
 15 knowingly meaning you understood what you were doing,
 16 and willfully with intent to bring upon the acts that
 17 did in fact occur?" You said "Yes."

18 A. Yes.

19 Q. And your testimony is the same today?

20 A. Yes, but it doesn't -- yes, I am not
 21 going to belabor the point, yes, it is.

22 Q. One follow-up question, Mr. Yacker, you
 23 had testified that the real estate appraisers were
 24 all licensed by the State of New Jersey?

25 A. I have no idea.

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1 Q. And you were licensed by the State of
 2 New Jersey?

3 A. That I know, yes.

4 Q. And then the realtors, were they
 5 licensed?

6 A. As far as I know they were.

7 Q. And what about Coastal Title Agency?

8 A. I have no idea, but there has to be a
 9 licensed title producer and a licensed whatever.

10 They have their own series of licenses by the
 11 Department of Banking and Insurance. I assume they
 12 were, yes, but I don't know.

13 Q. With all of these licensed individuals
 14 involved in these transactions, was there any reason
 15 why Walsh Securities as the lender would not think
 16 that this was an arms-length transaction?

17 MR. MCGOWAN: Object to the form of the
 18 question. You can answer it.

19 A. I have no idea what they would think or
 20 wouldn't. I don't feel I can answer.

21 Q. Sorry. Another follow-up. This is what
 22 happens.

23 A. That's all right.

24 Q. Previously you were testifying in
 25 response to Mr. Kott's and Mr. Hayes' questions that,

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1 you know, you thought that Walsh Securities wanted to
2 close more loans at the end of the month, and yet
3 earlier you had testified that you had never spoken
4 to anybody at Walsh Securities, so what gave you that
5 impression from Walsh Securities that it wanted to do
6 something if you never spoke to them?

7 A. Well, I'll try to answer it as I did
8 before. Regretfully I can't point to any particular
9 thing. It was just like a --

10 Q. Was it information --

11 A. I use the expression: "In the air." It
12 was like the flavor of the thing. It might have been
13 little bits I heard from Bill or from Lory or this
14 one or that one, but it was the definite impression
15 that I had.

16 Q. And bits that you had heard from Bill or
17 Lory or Mr. Grieser, they were all people interested
18 in continuing to do these transactions because they
19 were the ones getting money from Walsh Securities.
20 Correct?

21 A. Well, I don't know what they were or
22 weren't interested in. I know they didn't love what
23 they perceived Walsh's procedure to be of wanting to
24 close more, but not necessarily the same repetitive
25 way with a few select people like the Lieblers and

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1 thought earlier you had testified too that the straw
2 buyer had no interest in the property after the
3 closing. That's why they were willing to give away
4 60 percent of it.

5 A. They had an interest in what was left,
6 40 percent, yes.

7 Q. And I meant interest in a more general
8 sense. You said they were paid for their credit and
9 their good name.

10 A. Yes.

11 Q. And then what was their involvement in
12 the property thereafter?

13 A. None, but you see their names appearing
14 on the deed both before and after the joint venture
15 deed, I mean, they were still on the deed and it was
16 a form of kind of assurance for them that worse-case
17 scenario, if the property went into default the straw
18 buyer could just say, take it, you know, I didn't pay
19 the note, take the property.

20 Q. So that protected -- although at that
21 point what can a lender take? Only their 40 percent
22 interest. Correct?

23 A. That's a legal question. I don't know.
24 It gave them some comfort to know that if the thing
25 fell apart, at the most Walsh would take back the

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1 the Cuzzis and whatever.

2 Q. When you say you had met with the
3 Crespos, did you review the loan -- the file with
4 them?

5 A. I don't know about the file. I reviewed
6 the contract, I reviewed the things an attorney
7 should.

8 Q. Did you ask them if they were going to
9 live in these properties?

10 A. No, that wasn't an issue. That was a
11 two-family house as I recall.

12 Q. Didn't all of the loans involving the
13 Crespos have leases that we discussed before renting
14 out the entire property?

15 A. I don't remember leases being associated
16 with the Crespo matters at all.

17 Q. Do you remember leases being associated
18 with any of the other loans?

19 A. No, no, I don't. But, anyway, back
20 where we were, it was a two-family house, and as far
21 as I know they were going to live in one and rent
22 the other. I think that was their intention.

23 Q. Is that what they told you?

24 A. Yes.

25 Q. Okay. Amy will take a look. And then I

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1 property that they didn't think they bought anyway
2 and in effect wipe out the debt.

3 Q. But what if the property wasn't worth
4 what Walsh had funded?

5 A. That's a problem, that's a problem, and
6 I don't think people really contemplated that
7 possibility even though because of what turned out
8 later to be phony appraisals, that's exactly what
9 happened. I don't think anybody dreamed that the
10 appraisals were phony.

11 Q. What about Mr. Kane?

12 A. I was shocked by it.

13 Q. What about Mr. Kane?

14 A. Oh, he certainly knew. No, I shouldn't
15 say that. I don't know that he knew, but I feel that
16 he had to know.

17 Q. Who hired the appraisers?

18 A. Again, Mr. Fingers in All the Pies, Bill
19 Kane had control over that.

20 Q. So at the end of the day though then the
21 lender is left without an ability to recoup its money
22 because it can't just -- even if it takes the
23 property back, the property is not worth what was
24 lent on it.

25 MR. KOTT: Object to the form.

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<p style="text-align: right;">Page 286</p> <p>1 MR. McGOWAN: Object to the form also.</p> <p>2 A. Yeah, I assume that's correct, yes.</p> <p>3 Q. You also stated in response to Mr.</p> <p>4 Kott's I think initial question and Mr. Hayes' follow</p> <p>5 up was that Walsh Securities was not happy, was I</p> <p>6 think how you said it, that it had many loans to one</p> <p>7 individual.</p> <p>8 A. Right.</p> <p>9 Q. How did you know that if, again, you</p> <p>10 never spoke to anyone at Walsh Securities?</p> <p>11 A. Again, secondhand through a combination</p> <p>12 of Grieser and Kane and maybe Lory, through what she</p> <p>13 heard from Grieser and Kane, or maybe what she heard</p> <p>14 directly from Walsh. I don't know what she did or</p> <p>15 didn't have by way of conversations with Walsh.</p> <p>16 Q. And then if, as we've seen, a lot of the</p> <p>17 deeds were never recorded or were not recorded until</p> <p>18 later, how does a lender know to call a mortgage if</p> <p>19 it never gets notice that its -- 60 percent of its</p> <p>20 security has been deeded away?</p> <p>21 A. Oh, when they do a foreclosure -- again,</p> <p>22 I'm surmising what they do, but they do a search on</p> <p>23 the property.</p> <p>24 Q. But what if a lender found out that the</p> <p>25 joint venture had been entered into and 60 percent of</p>	<p style="text-align: right;">Page 288</p> <p>1 mortgage we had recorded, it just came back. It's a</p> <p>2 courteous way of alerting them that at least that</p> <p>3 part of the transaction is complete, or as we</p> <p>4 discussed before if they're going to stamp it:</p> <p>5 "Record and return to Coastal," then they would know</p> <p>6 first before I even knew.</p> <p>7 Q. And if something was returned --</p> <p>8 recorded and returned to Coastal, would Coastal send</p> <p>9 a copy to you or how did that work?</p> <p>10 A. No, they ordinarily wouldn't. They</p> <p>11 would issue the policy and that information would</p> <p>12 appear in the policy, but -- book and page number of</p> <p>13 the recorded mortgage.</p> <p>14 Q. So you wouldn't be in the loop to get a</p> <p>15 filed copy?</p> <p>16 A. No. I would have an unrecorded copy of</p> <p>17 the mortgage combined with the book and page number</p> <p>18 that they would give me in the policy, and together</p> <p>19 it would tell me the information I ought to have in</p> <p>20 my file, but again for all the reasons I mentioned I</p> <p>21 would have preferred, but it was not a big deal,</p> <p>22 honestly, that I get them back and inform Coastal</p> <p>23 rather than the other way around.</p> <p>24 Q. Did you ever receive any mortgages or</p> <p>25 deeds that you filed and then sent to Coastal?</p>
<p style="text-align: right;">Page 287</p> <p>1 the property had been deeded away, how would the</p> <p>2 lender find that out in order to call the mortgage at</p> <p>3 that point in time?</p> <p>4 A. Again, with a property search. It would</p> <p>5 disclose that transaction with the joint venture.</p> <p>6 Q. And who was responsible for doing -- or</p> <p>7 was anyone responsible for doing a property search, a</p> <p>8 bring-up search after the closing?</p> <p>9 A. Oh, I forgot the word that's used in the</p> <p>10 title industry.</p> <p>11 Q. A bring-down search?</p> <p>12 A. Whatever they call it, something like</p> <p>13 that, yeah. Cover record I think is another word</p> <p>14 that's used. They are. They're responsible before</p> <p>15 they issue the policy making sure all the listed</p> <p>16 exceptions have been taken care of or omitted such as</p> <p>17 a prior mortgage, want to make sure it's been paid,</p> <p>18 making sure the deed and mortgage have been properly</p> <p>19 recorded and they may issue the policy, but that's</p> <p>20 their function to do that.</p> <p>21 Q. The title agent?</p> <p>22 A. Yes. But, again, as a courtesy or</p> <p>23 whatever it would be up to me when the deed -- or I</p> <p>24 shouldn't say the deed. When the mortgage is</p> <p>25 recorded to send that to them and say: Look, the</p>	<p style="text-align: right;">Page 289</p> <p>1 A. That would have been our practice. As I</p> <p>2 say it was more a matter of courtesy than anything</p> <p>3 else. We should have done that. Maybe we were</p> <p>4 discourteous, I don't know.</p> <p>5 Q. Mr. Yacker, I would like you to take a</p> <p>6 look at what's in the file again, this is the Walsh</p> <p>7 file that we previously showed you concerning the</p> <p>8 Watson Avenue property that the Crespos had</p> <p>9 purchased.</p> <p>10 MR. KOTT: Would these be the leases?</p> <p>11 MR. MAGNANINI: Right.</p> <p>12 Q. What I have asked you to take a look</p> <p>13 at --</p> <p>14 MR. KOTT: Let me finish. I can't</p> <p>15 resist. Would these be the leases in the Walsh loan</p> <p>16 file that are dated before the Crespos actually</p> <p>17 acquired the property?</p> <p>18 Q. Mr. Yacker, I would just ask you to take</p> <p>19 a look and see if you recognize any of these leases</p> <p>20 that were --</p> <p>21 A. No, I do not.</p> <p>22 Q. Okay.</p> <p>23 A. I looked at all of them.</p> <p>24 Q. Is that a form that your office used?</p> <p>25 A. No. We had lease forms but it wasn't</p>

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1 this.

2 Q. Okay.

3 A. Also probably not necessary to add, but
4 I will anyway, not my handwriting, and I don't know
5 if it's Lory's or not because I told you I am not
6 good at identifying other people's handwriting, but
7 other than that I'm ready to answer any other
8 questions.

9 Q. Thank you. Mr. Yacker, you previously
10 testified, again in response to Mr. Hayes' questions,
11 that Walsh knew about the straw buyers due to the
12 sheer number of loans that were at issue. I'm trying
13 to paraphrase.

14 A. All right. They didn't necessarily know
15 and I say necessarily because I don't know what they
16 knew about the joint venture kind of a thing, but,
17 yes, they did know that there were straw buyers again
18 just because of the sheer number. I don't think they
19 suspected for a minute that Mr. Cuzzi, use his name,
20 was buying eight properties to live in one a month or
21 something.

22 Q. Although if the properties were being
23 rented out, if the leases come in?

24 A. I guess, but -- well, I don't know.
25 When I put that together with what I heard or

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1 understood to be their objection about mortgages,
2 multiple mortgages, to the same person, it just
3 doesn't add up to me.

4 Q. But that's something -- you never
5 discussed that -- any of that with anyone from Walsh
6 Securities?

7 A. No, I never discussed anything with
8 Walsh at any time except those couple of exceptions
9 with their attorney, Mr. Schlessinger.

10 Q. So anything else you heard from Mr.
11 Grieser or Mr. Kane?

12 A. Or perhaps Lory.

13 Q. Thirdhand?

14 A. Thirdhand, yes.

15 Q. No further questions at this time.

16 **RECROSS EXAMINATION BY MR. KOTT:**

17 Q. I have a few. You were asked some
18 questions about the transaction where the purchaser
19 then reconveyed to the joint venture?

20 A. Yes.

21 Q. And what effect that would have on a
22 mortgage foreclosure. Right?

23 A. Yes.

24 Q. With respect to a mortgage foreclosure
25 by Walsh, if its mortgage had been recorded it would

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1 have a priority over the interest of the members of
2 the joint venture. Correct?

3 A. Absolutely. It would take subject to
4 all the terms of the mortgage.

5 Q. So the sources of Walsh's money if there
6 were a default would have been two: Number one, they
7 could have foreclosed on the property and got
8 whatever the property realized, and, number two, they
9 could have pursued the borrower who had signed the
10 note for any deficiency?

11 A. But only after the foreclosure. They
12 couldn't do that first.

13 Q. Is that correct?

14 A. Yes, that's my understanding.

15 Q. Next subject. With respect to the
16 guilty plea, as part of your guilty plea did you
17 agree to testify in the criminal case of United
18 States versus Irene DeFeo and Donna Pepsny?

19 A. I did, yes.

20 Q. And as I understand it, the loans in
21 that case were not Walsh loans but were loans made by
22 another company called Selective. Is that your
23 memory?

24 A. No, I don't actually have any memory of
25 that. Let me say this: For some reason, which I

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1 don't understand to this day, I was kind of separated
2 and segregated from DeFeo and Pepsny and everything
3 about them. They didn't want me talking to them,
4 dealing with them. Certainly not collaborating with
5 them, but they also didn't want me to know the
6 details of their trial. I mean, I was sequestered
7 out in the hall, and I was called in just for my
8 particular part of the case. And I was not the first
9 witness, I was maybe the -- I don't know -- fourth or
10 fifth witness in the case. No idea what transpired
11 before me, and I was more than encouraged, just short
12 of being directed, by the judge when I was done with
13 my testimony to get the hell out of there. In fact,
14 I will tell you his exact words. He said:
15 Mr. Yacker, if I were you I would run, not walk to
16 the next exit.

17 I felt a little insulted. I was
18 thinking of hanging around a little bit just to see
19 what was going on, and I say that because that's kind
20 of my answer to your question: I don't know. That's
21 why I don't know.

22 Q. So with respect to that criminal case,
23 United States versus DeFeo and Pepsny, you don't know
24 whether that involved Walsh loans or Selective loans
25 or some other company's loans?

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1 A. Correct.
 2 Q. Okay. And in your plea -- you might not
 3 have reviewed it for a while.
 4 A. A long time.
 5 Q. But do you remember whether anything you
 6 said in your plea related to Walsh loans, or did they
 7 relate to Selective loans, or do you not know whose
 8 loans they related to?
 9 A. The third alternative, I do not know
 10 whose loans they related to.
 11 Q. So whatever you said you did in your
 12 plea, you do not know whether what you said you did
 13 related to Walsh loans. Is that true?
 14 MR. MAGNANINI: Objection to form.
 15 A. Yes. To the extent that it might have
 16 related to Walsh loans but I couldn't be sure.
 17 MR. KOTT: What was the basis for your
 18 objection?
 19 MR. MAGNANINI: Well, repeat his
 20 question again.
 21 (The last question is read by the court
 22 reporter.)
 23 MR. McGOWAN: It's a double negative I
 24 think.
 25 Q. Calling your attention to page 26 of

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1 your January 15th plea, and Mr. Magnanini took you
 2 through that, and I just want to make sure I
 3 understand what you're saying. The judge in asking
 4 you questions referred to three things, A, B and C?
 5 A. Exactly.
 6 Q. Do I understand your testimony to be
 7 that you were not saying that you did all three of
 8 those things, you were saying you did some of those
 9 things?
 10 A. That I --
 11 MR. MAGNANINI: Object. That
 12 mischaracterizes his testimony.
 13 A. I pled guilty to doing one or more of
 14 those things.
 15 Q. And let me ask you for a moment to
 16 assume, just assume --
 17 A. Excuse me. One or more of the
 18 defendants involved I guess.
 19 Q. What defendants are you referring to?
 20 A. I don't mean the defendants. The people
 21 mentioned in the counts of the indictment. I think
 22 there were nine of them all together.
 23 Q. Okay. Assume for a moment that on page
 24 26 you were referring to Walsh loans, just assume
 25 that.

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1 A. Okay.
 2 Q. Do you know which of the Walsh loans you
 3 would have done either A or B or C or all, A, B and
 4 C?
 5 A. No, I never separated that in my mind.
 6 Once I was comforted by the attorney that one or more
 7 applied and I didn't have to separate them out as to
 8 which of the three I did with which of the subjects I
 9 guess. I don't know.
 10 Q. So what I'm really asking: With respect
 11 to that Exhibit 5 that I showed you that had the
 12 chart attached to it, remember I showed you --
 13 A. Yes.
 14 Q. And some of those loans were closed by
 15 you. For any one of those loans would you be able to
 16 say you did any of conduct on page 26?
 17 A. I wouldn't. Not necessarily.
 18 Q. Okay. And some you might have done the
 19 conduct and some you might not have done the conduct
 20 reflected on page 26. Correct?
 21 A. I would say that's correct.
 22 Q. What would you need to do to determine
 23 for any individual loan whether you did the conduct
 24 referred to on page 26?
 25 A. I guess I would need to have multiple

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1 transactions or all 220 of them, if necessary, and:
 2 How about on this one, did you do A? Did you do B?
 3 Did you do C?
 4 Q. You would actually have to look at your
 5 file or Walsh's file?
 6 A. Look at something anyway. Unless I had
 7 a distinct recollection of that particular one, yes.
 8 Q. Thank you. I don't have any further
 9 questions.
 10 CONTINUED REDIRECT EXAMINATION BY MR. MAGNANINI:
 11 Q. Mr. Yacker, just to follow up. You
 12 understand perjury. Correct?
 13 A. Yes.
 14 Q. And so when on page 25 or, sorry, line
 15 25 of page 26 when the court asked you: You do all
 16 these things, not one, not A or B or C, multiples of
 17 them, but when they asked: Did you do all these
 18 things knowingly, voluntarily and willfully, you said
 19 yes.
 20 A. Yes, I did say yes.
 21 Q. And that was to all three, that wasn't
 22 to --
 23 A. No. I can only tell you what my
 24 understanding was, and, again, it is not something
 25 I'm trying to create now 14 years later. It's

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1 something that concerned me enough that I had a
2 direct conversation with Larry Lussberg's associate.
3 In fact, until you bailed me out and said he was also
4 at the hearing, I would have driven myself crazy, I
5 could have sworn he was there, and when you said they
6 were both there that would have explained it. I
7 distinctly remember, as I sit here today, having this
8 conversation with the young associate of Larry's.

9 Q. Maybe this will help you then. Go on
10 page 26, if you will start at line nine, and it says:
11 "Did you commit the following fraudulent acts to
12 further the straw buyers' scheme?" I thought you had
13 previously testified that until Gary Grieser became
14 involved with Mr. Kane in 1996 that there weren't any
15 straw buyers.

16 A. I may have said that. I don't remember
17 saying that, but m it sounds like something I would
18 have said.

19 Q. So what your pleading to to A, B and C
20 involved a scheme with the straw buyer.

21 A. That's what you're saying or that's what
22 you're asking. I don't know. I can only say
23 again --

24 Q. Let's look at the question.

25 A. Look at it all you want to. I am

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1 telling you what my understanding of what I said was
2 and it was important enough for me to hash it out
3 with my attorney right there at the table. Again, I
4 am not trying to recreate something 14 years later:
5 Obviously I meant this or I meant that. It concerned
6 me at the time.

7 Q. I understand. When I read through your
8 plea you plead to a variety of things on page 23 and
9 24 and I am on page 25. The first question on line
10 11 is: "In regard to the information in 1996, did
11 Grieser and others solicit, locate persons willing to
12 act as straw buyers in numerous transactions even
13 though these persons actually had no interest in
14 obtaining such loans or purchasing such properties?"
15 And your answer to that was "Yes."

16 And then the next question was: "After
17 closing on these properties, did each straw buyer
18 convey 60 percent of their interest to Capital
19 Assets?" And you said, "Yes."

20 And then the next question was: "Did
21 you with the assistance of Lorraine King, your legal
22 secretary, prepare the joint venture agreement used
23 in those transactions?" And you said, "Yes."

24 A. Okay.

25 Q. And then you said: "Did you know that

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1 each of the straw buyers was being paid for the use
2 of their names and credit histories in obtaining the
3 subject mortgage loans and acquiring the subject
4 properties?" And you said, "Yes."

5 A. Okay.

6 Q. And you've already testified to that
7 separately here?

8 A. I have.

9 Q. And then the next question: "Did you
10 commit the following fraudulent acts to further the
11 straw buyers' scheme?"

12 A. A, B and C.

13 Q. And that's A, B and C. At the end the
14 judge asked you: "Did you do all these things
15 willfully, voluntarily and knowingly?" And you
16 said, "Yes."

17 And what is different or -- I am not
18 saying what's different now, but to what parts of
19 what is listed as A, B or C were you unsure if you
20 committed these acts?

21 A. I can't answer that now any more than I
22 was prepared to answer it then. And without the
23 assurance from the attorney that I was admitting to
24 one or more of those things -- I don't care what the
25 judge said afterwards, and I don't care -- I don't

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1 mean to sound rude when I say this, I don't care what
2 your impression is of what the judge said. I know
3 what my understanding was and I know what it was
4 based on, my conversation with my lawyer. And that's
5 what my intent and meaning and purpose and everything
6 was. Notwithstanding the reference to perjury, and,
7 yes, I do know what perjury is.

8 Q. How many loans did you close that were
9 flips that did not involve Mr. Kane?

10 A. Perhaps none. I'm not unfamiliar with
11 the concept. I might have done a couple, but I kind
12 of alluded to it in my earlier testimony, there was
13 an ideal way to do it. I referred to the same office
14 and different rooms and that kind of thing. I recall
15 doing a couple of those. But they didn't have the
16 same odor about them.

17 Q. Right. Did any of those involve straw
18 buyers?

19 A. No.

20 Q. Did any of them involve Mr. Kane or his
21 corporations?

22 A. You told me to list the ones that didn't
23 involve Bill Kane.

24 Q. That's what I'm saying.

25 A. No, they didn't.

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<p style="text-align: right;">Page 302</p> <p>1 Q. And then all of the transactions that 2 involved the straw buyers with the purchase and the 3 sale, what entity funded those loans? It was always 4 Walsh Securities, wasn't it? 5 A. I believe so, yeah. 6 Q. Okay. No further questions. 7 MR. KOTT: I have to further questions. 8 MR. McGOWAN: No. 9 Q. Thank you, Mr. Yacker. 10 (A discussion takes place off the 11 record). 12 (The deposition is concluded at 7:00 13 p.m.) 14 15 16 17 _____ 18 STANLEY YACKER 19 Subscribed and sworn to before me 20 this _____ day of _____, 2010. 21 _____ 22 Notary Public 23 24 25</p>	
<p style="text-align: right;">Page 303</p> <p>1 CERTIFICATE. 2 3 I, JANET BAILYN, a Notary Public and 4 Certified Court Reporter of the State of New Jersey, 5 do hereby certify that prior to the commencement of 6 the examination STANLEY YACKER was duly sworn by me 7 to testify the truth, the whole truth and nothing but 8 the truth. 9 I DO FURTHER CERTIFY that the foregoing 10 is a true and accurate transcript of the testimony as 11 taken stenographically by and before me at the time, 12 place and on the date hereinbefore set forth. 13 I DO FURTHER CERTIFY that I am neither a 14 relative nor employee nor attorney nor counsel of any 15 of the parties to this action, and that I am neither 16 a relative nor employee of such attorney or counsel, 17 and that I am not financially interested in the 18 action. 19 20 _____ 21 Notary Public of the State of New Jersey 22 My commission expires February 3, 2013 23 License No. XI00970 24 25 Date: June 7, 2010</p>	

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